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13 *Juan Rivas;*
14 *ADT LLC of Delaware; and*
15 *Johnson Controls Security Solutions LLC*

16 **UNITED STATES DISTRICT COURT**

17 **DISTRICT OF NEVADA**

18 **EDYTHE MAXINE HARTMAN**, a Nevada
19 resident,

20 Plaintiff,

21 vs.

22 **JUAN RIVAS**, a Nevada resident; UTC
23 FIRE & SECURITY AMERICAS
24 CORPORATION, INC., d/b/a
25 INTERLOGIX, a corporation; ADT LLC OF
26 DELAWARE, d/b/a ADT, a foreign limited
liability company; JOHNSON CONTROLS
SECURITY SOLUTIONS LLC, a foreign
limited liability company; ROE
MANUFACTURER; ROE COMPONENT
PARTS MANUFACTURER; ROE
DISTRIBUTOR; ROE ADT SECURITY
DEALER; ROE ADT PRODUCT
INSPECTOR; ROE ADT PRODUCT
DESIGNER; DOES 1-20; and ROE
BUSINESS ENTITIES 1-20, inclusive,

CASE NO. 2:20-cv-01968

27 Defendants.

28 **ADT LLC OF DELAWARE AND**
JOHNSON CONTROLS SECURITY SOLUTIONS LLC'S
NOTICE OF REMOVAL

29 Pursuant to 28 U.S.C. § 1446, Defendants ADT LLC of Delaware ("ADT"), and Johnson
30 Controls Security Solutions LLC ("JCSS"), by and through undersigned counsel, hereby file this

1 Notice of Removal to effect removal of this civil action from the District Court in and for Clark
2 County, Nevada, where it was filed as Case No. A-20-821415-C, to the United States District Court of
3 Nevada at Las Vegas, and show unto this Honorable Court as follows:

4 1. On or about September 18, 2020, Plaintiff Edythe Maxine Hartman (“Plaintiff”) filed a
5 Complaint (“Complaint”) in the District Court in and for Clark County, Nevada, in the civil action
6 styled *Edythe Maxine Hartman vs. Juan Rivas, et al.*, Case No. A-20-821415-C (“State Court
7 Action”). True and correct copies of all process and pleadings served upon or available to ADT and
8 JCSS are attached hereto as **Exhibit A**, and incorporated herein by reference. The Complaint sets
9 forth tort claims arising from a September 20, 2019 fall Plaintiff took at her residence located at 3949
10 Ruskin Street, Las Vegas, Nevada 89147 (“Residence”), allegedly resulting in severe and life-
11 threatening injuries, all or some of which conditions are permanent and disabling in nature, as well as
12 extensive medical treatment. Plaintiff alleges that a component of the security system installed at the
13 Residence, identified as a “panic button,” failed to transmit an emergency signal. Plaintiff makes
14 claims for Negligence of a Vulnerable Person; Strict Products Liability; Breach of Warranty;
15 Negligence; Negligent Hiring; Negligent Training; Negligent Supervision; and Negligent Retention.

17 2. ADT and JCSS were both served with the State Court Action Summons and Complaint
18 on September 24, 2020.

19 3. Pursuant to 28 U.S.C. § 1332, there is now complete diversity between Plaintiff and
20 Defendants and, upon information and belief, the amount in controversy exceeds the sum or value of
21 \$75,000.00, exclusive of interest and costs.

22 4. The Notice of Removal is filed timely. Pursuant to 28 U.S.C. § 1446(b), the Notice if
23 filed within thirty (30) days of receipt by ADT and JCSS of the initial pleading setting forth the claim
24 for relief upon which such action or proceeding is based.

DIVERSITY OF CITIZENSHIP

26 | 5. Plaintiff is a resident of Nevada. See Ex. A, Complaint at ¶ 1.

27 6. Juan Rivas (“Mr. Rivas”) is a citizen of the State of Indiana. See Declaration of Juan
28 Rivas, a true and correct copy of which is attached hereto as **Exhibit B**, as well as the Affidavit of

1 Process Server filed in the State Court Action (*See Ex. A* at p. 28). Mr. Rivas is not, and was not at
 2 the time of filing, a citizen of the State of Nevada within the meaning of the Acts of Congress relating
 3 to the removal of actions. 28 U.S.C. § 1332(c)(1).

4 7. Upon information and belief, UTC Fire & Security Americas Corporation, Inc., d/b/a
 5 Interlogix (“UTC/Interlogix”), is a Delaware corporation with its principal place of business located in
 6 Palm Beach Gardens, Florida. UTC/Interlogix is not, and was not at the time of filing, a citizen of the
 7 State of Nevada within the meaning of the Acts of Congress relating to the removal of actions. 28
 8 U.S.C. § 1332(c)(1). A true and correct copy of the Entity Information screenshot downloaded from
 9 the Nevada Secretary of State Business Portal is attached hereto as **Exhibit C**.

10 8. ADT is a limited liability company, the citizenship of which is determined by the
 11 citizenship of its members. *See Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th
 12 Cir. 2006). ADT’s sole member is The ADT Security Corporation, a Delaware corporation with its
 13 principal place of business located in Boca Raton, Florida. Under 28 U.S.C. § 1332(c)(1), The ADT
 14 Security Corporation is a citizen of Delaware and Florida. ADT is therefore a citizen of Delaware and
 15 Florida. ADT is not, and was not at the time of filing, a citizen of the State of Nevada within the
 16 meaning of the Acts of Congress relating to the removal of actions. 28 U.S.C. § 1332(c)(1).

17 9. JCSS is a limited liability company, citizenship of which is determined by the
 18 citizenship of its members. *See Johnson*, 437 F.3d at 899. JCSS’s sole member is The JCSS Security
 19 Corporation, a Delaware corporation with its principal place of business located in Boca Raton,
 20 Florida. Under 28 U.S.C. § 1332(c)(1), The JCSS Security Corporation is a citizen of Delaware and
 21 Florida, thus making JCSS a citizen of Delaware and Florida as well. JCSS is not, and was not at the
 22 time of filing, a citizen of the State of Nevada within the meaning of the Acts of Congress relating to
 23 the removal of actions. 28 U.S.C. § 1332(c)(1).

24 10. While Plaintiffs allege counts against several “Roe” defendants, the citizenship of
 25 defendants sued under fictitious names is disregarded for purposes of removal. 28 U.S.C. § 1441(a).

26 11. Plaintiff is a citizen of the Nevada. As Mr. Rivas is a citizen of Indiana, and
 27 UTC/Interlogix, ADT, and JCSS each are citizens of Delaware and Florida, complete diversity exists.

28

THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000

12. The amount in controversy in this case exceeds \$75,000, excluding interest and costs,
3 pursuant to 28 U.S.C. § 1332(a).

13. Plaintiff affirmatively pleads damages for her separate claims of strict products
5 liability, breach of warranty, negligence, negligent hiring, negligent training, negligent supervision
6 and negligent retention in excess of \$110,000. *See Ex. A*, Complaint, at ¶¶ 69, 70, 88, 89, 105, 106,
7 116, 117, 128, 129, 140, 141, 152 and 153. Indeed, in each of those claims Plaintiff seeks damages
8 for “significant injuries, all or some of which conditions are permanent and disabling in nature,
9 causing general and special damages … which amounts easily exceed \$55,000[,]” (*Id.* at ¶ 69) and in
10 the very next paragraph seeks damages for “medical and other treatments for injuries sustained to
11 body, limbs, organs and nervous systems, all or some of which conditions may be permanent and
12 disabling and, all to Plaintiff’s damage in a sum in excess of \$55,000.” *Id.* at ¶ 70. Thus, Plaintiff’s
13 damages in each of those claims is “in excess of” \$110,000, excluding a separate demand for
14 attorney’s fees and costs. *Id.* at ¶¶ 73, 92, 109, 120, 132, 144 and 156.

15. Moreover, Plaintiff prays for double damages for her claim of “Negligence of a
16 Vulnerable Person,” seeking a multiple of damages “in excess of” \$110,000. *See id.* at ¶¶ 54 and 55
17 (claiming that defendants are liable for “double the amount of damages incurred by Plaintiff” for
18 allegedly “violating their duty to Plaintiff, a vulnerable person.”).

19. Plaintiff’s own allegations and requests for damages against all defendants makes clear
20 that she is seeking damages “easily in excess” of the \$75,000 amount in controversy required for
21 diversity jurisdiction under 28 U.S.C. § 1332(a).

CONSENT

23. 16. Mr. Rivas has consented to the removal of the State Court Action.

24. 17. Counsel for ADT and JCSS conferred via email communication with in-house counsel
25 for UTC/Interlogix, who provided consent to removal on behalf of UTC/Interlogix. *See Email*
26 Correspondence dated October 22, 2020, attached as **Exhibit D**.

THE OTHER REMOVAL PREREQUISITES HAVE BEEN SATISFIED

18. All served parties are being provided with a written notice of the filing of this Notice of Removal and a copy of this Notice of Removal is being filed with the State Court Clerk, as provided by law.

19. All non-fictitious Defendants in this matter have consented to removal. *See Exhibits B and D.*

6 20. The prerequisites for removal under 28 U.S.C. § 1441 have been met.

7 21. The allegations of this Notice are true and correct and within the jurisdiction of this
8 Court, and this cause is removable to this Court.

9 22. This Court is the proper district court for removal because the State Court Action is
10 pending within this district.

11 23. If any question arises as to the propriety of the removal of this action, ADT respectfully
12 requests the opportunity to present a brief and oral argument in support of its position that this case is
13 removable.

14 24. If Plaintiff seeks remand under the premise that her injuries do not exceed \$75,000,
15 ADT asks that, prior to remand, this Court order Plaintiff to stipulate that she would not seek to
16 recover any judgment against any defendant in this matter in excess of \$75,000.

17 WHEREFORE, Defendants ADT and JCSS desire to remove this case to the United States
18 District Court for the District of Nevada at Las Vegas, being the district and division of said Court for
19 the county in which said action is pending, and prays that the filing of this Notice of Removal shall
20 effect the removal of said suit to this Court.

21 || DATED this 23rd day of October, 2020.

Respectfully submitted,

By: /s/ J. Malcolm DeVoy
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1 **CERTIFICATE OF SERVICE**

2 I certify that on this 23rd day of October, 2020, the foregoing was filed via the Court's
3 CM/ECF system, which generated a notice of electronic filing with links to true and correct copies of
4 the foregoing document for service, and further that this document and all attachments were
5 transmitted via U.S. Mail, upon the following counsel of record:

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18 _____
19 /s/ J. Malcolm DeVoy
20 J. Malcolm DeVoy

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